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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,110	12/10/2003	Fabien Lavoie	15680-1us PN/df	4511
20988 7590 03/17/2009 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA				
EXAMINER				
LOWE, MICHAEL S				
ART UNIT		PAPER NUMBER		
3652				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/731,110

Applicant(s)

LAVOIE, FABIEN

Examiner

Michael Scott Lowe

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 05 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/15/08 has been entered.

Drawings/Specification

As noted by the prior examiner the previous drawing and specification changes of 5/29/08 were not accepted and were not entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,2,4-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, applicant states that the anti-roll device is "free of contact with the inclined surface at any time during movement of the apparatus along the inclined surface". This seems not quite correct as the anti-roll device must contact the inclined

surface on some occasions or there is no point to having it. For sake of examination the claim is interpreted as noted in the art rejections below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,6,10-12, is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Cates (US 2,902,101) in view of Breacain (US 3,848,883).

Re claim 1, Cates discloses a body having a support surface (generally 47), endless track (generally 38), power source (generally 33) and an anti-roll device being at least one arm (generally 52) projecting longitudinally away from the support surface (generally 47). Cates fails to disclose that the anti-roll device is completely above a plane of an undersurface of the apparatus and moves generally parallel to a bottom surface of the apparatus without contacting the inclined surface. Breacain teaches an anti-roll device (generally 19) located completely above a plane of an undersurface of the apparatus and moves generally parallel to a bottom surface of the apparatus without contacting the inclined surface in order improve stability. It would have been obvious to one of ordinary skill in the art to have tried modifying Cates with the safety device of Breacain in order to have the anti-roll device is completely above a plane of an undersurface of the apparatus and moves generally parallel to a bottom surface of the

apparatus without contacting the inclined surface in order to achieve the predictable result of preventing falling down the stairs and to improving stability. Such modification constitutes simple substitution of one location of an element for another in order to yield the predictable result of discouraging tipping.

Re claims 2,4,6,10-12, Cates additionally discloses an arm projecting rearwardly (generally 52), displaceable from a retracted position, not projecting, to a projecting position. (Col. 2 Li. 68 et seq.), actuation of the arm is automated as a function of inclination (generally 53) and as already modified by Breacain the device would still have an automated displacement either as the spring displacement or as merely automating the known manual device which is well within the skill of an ordinary mechanic and obvious to do to achieve the predictable result of assisting a disabled operator, a roller system selectively deployable for displacing the apparatus without the endless track (generally 49), the support surface pivotally displaceable, the support surface displaceable with respect to a height, a cylindrical roller (Col. 3 Li. 38-41).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cates (US 2,902,101) in view of Breacain (US 3,848,883) and further in view of Jespersen (US 3,765,258 A).

Re claim 5, the driving and braking apparatus is known in the art, as demonstrated, for example, by Jespersen. Jespersen teaches endless track (generally 27) connected to wheels (generally 25) which have longitudinal fingers (generally 325) meshing with complimentary fingers (generally 535) on the endless track (generally 27)

further comprising a brake (generally 144) (the motor may be employed for stopping and therefore the transmission elements considered a brake within the broadest reasonable interpretation of the term e.g., motor braking), having fingers (teeth) engaged with the fingers (teeth) of at least one of the wheels (generally 195) to prevent unwanted displacement. Employing the driving arrangement of Jespersen constitutes simple substitution of one known element for another in order to obtain the predictable result of controllably actuating the locomotion means (e.g., the track), and therefore, would have been obvious to one having ordinary skill in the art.

Claims 6-9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Cates (US 2,902,101) in view of Breacain (US 3,848,883) and further in view of Sowerby (US 2,873,870).

Re claims 6,7, Cates fails to teach the roller system having an actuated mechanism for deploying the rollers. Sowerby teaches the roller system having an actuated mechanism for deploying the rollers (106)/(122). It would have been obvious to one of ordinary skill in the art to have tried modifying Cates in view of Breacain with the actuation system of Sowerby in order to achieve the predictable result of facilitating conversion between the endless track and wheels, thereby allowing the vehicle to quickly adjust to a different terrain.

Re claims 6,8,9, Cates additionally teaches a swivel mechanism (Col. 3 Li. 39) to ease handling. Cates fails to teach four rollers, one in each corner. Sowerby teaches four rollers, one in each corner. It would have been obvious to one of ordinary skill in the

art to try modifying Cates in view of Breacain with the four rollers with a swivel, one in each corner of Sowerby in order to achieve the predictable result of improving stability and easing handling.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/
Primary Examiner, Art Unit 3652

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